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THE IDEAL OF A TRUE PRISON SYSTEM FOR A STATE.

A PAPER READ BEFORE

THE NATIONAL CONGRESS

ON

PENITENTIARY AND REFORMATORY DISCIPLINE

AT CINCINNATI, ON OCTOBER 12, 1870,

BY

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As in poetry and the fine arts ideality forms one of the chief constituents of creative genius, so in political affairs and civil progress it is an essential element. It is the image of the real, that which may be—not the visionary, the fanciful. Plans for improving society deduced from cloistral meditation may be ideal, chimerical, but practical reforms come from actual contact with the classes considered. That prison system devised by the philosopher may or may not be practicable, but that one induced from experience is likely to be true, and is the ideal I wish to evolve.

The prison system of a State being a part or department of the State government, should partake of the *same spirit*, and since all good government is beneficent and promotive of the prosperity and happiness of society at large through its individual members, a true prison system will seek this end for that portion of society for whose special regard it is created. The true interests of the

individual are never antagonistic but always identical with those of society. Whatever may be their character or conduct this is true. No social ostracism can change it. Disregard of this principle brings disaster in one form or another. Legalized degradation or destruction of any class or criminal inflicts injury upon the whole social organism directly and reflexively; while efforts for the highest and best welfare of any person or portion of society promote the general good—positively when successful, negatively always, and necessarily upon the active agents of such efforts whether successful or not.

Not only should there be unity of spirit with the general government of the State and prison system, but *identity of aim*. The grand aim of government is to protect the people in the exercise of all the liberty they can rightfully claim and secure thus the highest development of their natural faculties and powers. So the central aim of a true prison system is

the protection of society against crime, not the punishment of the criminals; punishment the incident, protection the object, and since it is clear that there can be no real protection against crime without preventing it—*prevention* must be placed fundamentally in the principles of a true prison system. This widens the scope, embracing causes of crime mediate and immediate, the classes from which criminals come, as well as the treatment of criminals themselves. It includes, of course, a system of prisons, but much more than this if it is of any great service.

The causes of crime are primarily in the creature, secondarily in the circumstances that surround him. The quality of being that constitutes a criminal cannot be clearly known until observed as belonging to the class from which criminals come, for the peculiarities of an individual may be purely personal, indicating nothing definite as to the law that governs his actions. While the same facts found to follow a class would reveal at least the existence of a law, though possibly not yet definable. The science of man forms the foundation of all systems for his government. A true prison system, therefore, should take cognizance of criminal classes for purposes of investigation, to bring to bear such forces as shall modify their common character, thus diminishing the tendency to crime. Surely much may be gained for repression of crime in a community, through facility of access afforded and information obtained as to the criminal class, and also much for finding true principles of prison administration when we can classify society and designate the conditions that develop criminal practices. See the significance of the following facts gathered from an examination of 100,058 prisoners from 15 different prison establishments, both county prisons for the confinement of those convicted of misdemeanors, and State Prisons for felons; 53,101 were born in foreign countries, leaving 46,957 natives, but of these full 50 per cent. were born of foreign parents, making over 76 per cent. of the whole number whose tastes and habits were those of such foreigners as emigrate to this country. The inmates of the two classes of prisons viewed apart in this particular show that while 61 per cent. of the county prisoners were actually foreign born, only 39 per cent. of State prisoners are so reported, thus exactly reversing the ratio. Of this 100,058 prisoners, 58,159 were living without the influence of family life, and 41,899 lay claim to family connections. Now, if we put with this what we know as to the life of these latter, the low type of their family relation, we have another social fact in relation to criminals, of much importance. Again, of the same aggregate 16 per cent. are between the ages of 16 and 20 years, 42 per cent. between 20 and 30 years, and 42 per cent. over 30. Or, 58 per cent. under 30 years of age, and 42 per cent. over; in the county prisons 52 per cent. under 30, and in the State institutions 70 per cent. The following as to the previous occupation of this 100,000 prisoners convicted of crime points unmistakably to its prolific conditions, viz.: 82 per cent. were laborers and servants, 16 per cent. only were artisans, less

than 2 per cent. "professional loafers," and only 874 of the whole number from the educated professions. It is known too, that the education of prisoners generally consists in the ability to read and write simply; but few can do any mathematical work and not one per cent. are classically educated, and these but superficially so. The statistics I have show 27 per cent. not able to read, 17 per cent. read a little but do not write; thus 44,000 of the number under consideration are without education, and the balance, 56,000, being only able to read and write, are without systematic mental culture. If we add to this one other fact, viz.: that 82 per cent. admit themselves to be intemperate, in bondage to their animal appetites, only 18 per cent. claiming to be temperate, while many of these were committed for crimes, the consequence of their excesses. We have an array of statistical information as to the social condition of the classes from which criminals come, and inferentially as to the constitutional condition of criminals, that cannot be ignored by any prison system justly entitled to the name system, and certainly not by the true ideal.

Not only does there devolve upon this department the gathering and arrangement of social statistics that bear upon crime, but the duty of generalizing them. No sound prison system can be devised until examination is had antecedent to social phenomena. Whence these unfavorable conditions among men? Why does crime follow in their train? What is the molecular condition, quality, of those who gravitate to vicious and criminal society and practices? How is the mind affected by a degraded physical organism? How are the tastes formed, purposes and desires molded, moral sense obscured by such a mind? Do men make themselves what they are, voluntarily? Or, is there a law of transmission pervading the moral and intellectual nature as well as the physical? What kind of culture intensifies the natural tendency, what cures and tones up? How can a system be planned, a department of State government, formed to cure criminals, stamp out crime, to heal the social disease thus developed without first obtaining a diagnosis of it?

The current opinion as to crime is two-fold: That all men are absolutely free to do or not to do; that they voluntarily elect and deliberately do wickedness with full knowledge of its nature and consequences, with full power to restrain themselves, and that it is a subterfuge and a lie that passion, appetite, or any other propensity ever enchains the will and enslaves them; or, at least, that all men are *born* free and if the chains of captivity now bind them it is by their own folly and free act; that they might have prevented it and if suffering comes as a consequence it is but just, or if crime is committed then the public punishment should be such as to pay them fully in anguish and pain for their wickedness and to strike with terror those who know of their fate. On the other hand it is maintained that our individual liberty of action is limited by the bias with which we are born and arising from the circumstances of our early life (both beyond our control), that the

quality of the physical organism, as well as the condition of health at any given time, influences our impulses and desires and bears upon the possibility or impossibility of self-control; that election itself is determined in great degree by the natural tastes and those that come by cultivation without our volition; that any line of human conduct, good or bad, is governed much by the balance of power in the will or passions; that therefore a criminal act indicates a particular species of the *genus homo*, or a variety of species not favorable for friendly fellowship with the world at large; that society should not punish, but impose such restraint and treatment (when the condition is clearly ascertained) as shall secure protection and conduce to the further and higher development of the being.

The advocates of this latter view hold that vengeance for recompense belongs not to human hands, but to God, who has reserved it to himself—that it has no place in true prison system. Nor should punishment be inflicted upon perpetrators of crime that others may be deterred from a similar course, for this is unjust, jeopardizes reformation and breeds antagonism to the law and its executors. It may be affirmed also that in the history of jurisprudence it is found practically a failure for the purpose in view. Nevertheless they demand the most thorough treatment of criminals. They espouse no sickly sentimentalism. They are not popular philanthropists, but urge upon society the obligation to treat the great company constantly coming to the surface, whose mania or monomania, though many formed and manifested never so naturally, still renders them dangerous or damaging to the public welfare, so that they shall be cured or kept under such continued custodial restraint as gives guarantee of safety from further depredations.

It will be noticed that there is a wide difference in these two views of crime—so wide that every prison system must be founded upon one or the other of them, not by any possibility upon both, for it would be divided against itself and could not stand! Just here thorough discussion is needed, for irrevocable choice must be made! If punishment, suffering, degradation are deemed deterrent, the best means to reform the criminal and prevent crime, then, let prison reform go backwards to the pillory, the whipping post, the gallows, the stake, to corporal violence and extermination! But, if the dawn of Christianity has reached us, if we have learned the lesson that *evil is to be overcome with good*, then let the prisons and prison systems be lighted by this law of love. Let us leave for the present the thought of inflicting punishment upon prisoners to satisfy so-called justice and turn towards the two grand divisions of our subject and real objects of the system, viz: *the protection of society by prevention of crime and the reformation of criminals*, considering first and more particularly what these two ideas involve, then the practical plan for the prison system that shall best succeed and afterwards (possibly) the necessary steps by which it may be realized.

Crime, springing, as it does, from the selfishness and imperfection of our nature, can-

not entirely cease until we have perfect society, which must be composed of a perfected race; this we can hardly hope for in our age and generation. But crime may be diminished by the progress of civilization, which, within the sphere of our influence, we may help or hinder, though in the world at large civilization is bounded by great laws operating in harmony with those governing the changes occurring in the material structure of the earth itself. The throng of European emigrants of the poorer class coming annually to our shores seems to have something to do with the volume of crime in our own country, (as is shown by the statistics heretofore adduced), and may be regulated so as to secure a more rapid and sure absorption of them among the native population, and something may be done to distribute the dependent and dangerous classes from the crowded marts to more thinly populated regions, thus doing away with many incitements to crime for them. The large proportion of criminals living out of the family relation, and the low type of their family life suggest the thought of some governmental control of marriage to make it honorable and desirable for the poorer classes, and to prevent such unions as necessarily propagate disease and dangerous tendencies; also to require and maintain suitable sanitary circumstances for the growth of a healthy people with pure impulses. This seems the more feasible from the fact that so large a majority of criminals are under thirty years of age, and therefore susceptible of improvement as a class. That the labor question, with its numerous branches, bears directly upon crime, is clearly indicated by the 82 per cent of 100,000 prisoners whose previous occupation was that of laborers and servants, the prevention of crime seeming to involve better compensation for these and better facilities for their education, the want of which in this particular is made painfully apparent by the statistical statement herein. So, too, it would seem a hopeless task to try to prevent crime without regulating and restraining the vending of intoxicating liquors when it is shown that 82 per cent of criminals admit themselves to be intemperate. The department of prevention also involves the compulsory education in common schools of those children now excluded therefrom by their incorrigibility or indifference, and the neglect or disregard of their parents and guardians; also of the children and youth in jails, alms houses, and dependent families who are wholly or in part the wards of the State, for here are found the seeds of much degradation, and the source of much criminality. So, too, the system of temporary relief for the indigent, as it is generally framed and administered, must be supplanted by a better one, robbed of the degradation incident to alms giving and supplied with some stimulus to exertion and to social elevation. The poor houses, many of them poor indeed, need to be replaced by State or district establishments, with better appointments, and such administration as looks to the cultivation of the inmates up to a self-sustaining point instead of their stunted support in *statu quo*; the iniquitous common jail system must be stricken

from the face of society, and some safe place be provided in each county for the isolated imprisonment of alleged criminals before trial, and also district industrial reformatories for the treatment of those convicted of misdemeanors, fallen persons and lappings. The prevention of crime therefore involves a change in public sentiment as to these matters. That sentiment of society, which lets alone the causes of crime, leaves the criminal in unrestrained practices premonitory of the sure result (out of regard to falsely so-called personal rights), then cries for punishment, vengeful, vindictive; when the Christian pulpit demands capital penalties and consigns the culprit to consuming fires, when no pity is felt for the forlorn wretch who is often the victim of ancestral vices, vile parentage and poverty stricken surroundings in early life; then the sentiment of society prevents the possibility of planting a true prison system. There must be such advance of civilization, such virtue and intelligence in the State, that its chief officers, its legislature and the courts shall have real regard for society and hold all things subservient to this. When all social questions are viewed from the partizan stand point and for partizan purposes, when the administration of this department is intertered with and its management attempted by politicians who have no knowledge of its facile nature, when the judges of the courts are elected to place by the seeming riots of the roughs and then let them slip through the meshes of the law, possibly reading religious homilies to turn the public eye from the true character of the proceeding—then only *Bastilles* or *Bridewells* are possible. Public sentiment must be changed, kindlier feelings cultivated, and control of these matters centred in some competent authority—free from partizan bias. The influence of society at large and of the government must be enlisted in aid of these efforts to interpose barriers to the growth of crime, preventing, so far as possible, the crop of criminals now gathered as a harvest with every returning court session, and restraining, educating, refining, *reforming* such as sift through these preventive means and come into prison establishments for cure.

The term *reformation*, as here used, has reference to that "correction or amendment of life and manners," that make those, who were obnoxious and troublesome, now tolerable, acceptable or useful citizens. This, society may undoubtedly secure by force if necessary, and possible; for this the so-called liberty of the citizen may be legitimately restricted, but society may not attempt the forcible adjustment of individual interior relations to the Divine Being nor impose any particular ethics, for our personal attitude towards God is known only to Him and ourselves, and religious systems are of variable value for the reformation of prisoners. The change sought in the character of criminals called reformation is of a practical nature and has to do with daily life in ordinary social relations. As a result attained, no particular importance is attached to the welling up of the emotions at particular times, those spasmodic impulses poured forth in passionate utterance from fickle

hearts and foolish tongues. All this is but a poor antidote for evil propensities inborn, inbred, and inbreathed from the social atmosphere of a lifetime, though doubtless it has its use in rousing the sluggish mind, in stimulating better purposes and possibly in strengthening them. Reformation involves such change in the constitutional tendencies that the impulses and desires are revolutionized and become permanent, with their preponderance decidedly to the right, and such added power of self control obtained as gives always free choice when the mind is diversely drawn by mixed motives and such favorable situation in society, when restored to it, as shall strengthen (by association) the good and tempt not the evil within one greater than can be borne.

Approaching now the presentation of the plan for a true prison system, I am overwhelmed with a sense of the magnitude of the task, profoundly impressed with the breadth of the theme and painfully sensible of the proper limits of this paper, whose thoroughness and clearness demands a review of present prison systems, so called, a discussion of the principles involved, a particular description of the several reformatory establishments included and full notes detailing the management of prisons, prisoners and the preventive operations of the system. Of course all this is impossible; a mere outline must suffice.

This ideal contains three departments, viz: (1.) Organization; (2.) Legislation; and (3.) Administration. The organization may be considered under two heads: (1.) The executive force, the governing power, the centralized head; (2.) The institutions and instruments through which it is to act upon society and the criminal.

So much has been written upon the necessity of withdrawing this important public interest from the general affairs of the State and placing it under particular charge of a few selected citizens, the practice is being so generally adopted by States farthest advanced in civilization, and has been found so favorable in its effects, that I assume this as the true policy. Their title (usually Board of Charities), while preferable to that of Prison Commissioners or Commissioners of Correction, is still objectionable, and the term prison should be stricken from our statutes. In the communications of mind with mind it is a well-settled principle that "like begets like." We have the best of authority for affirming that "grievous words stir up anger, and a soft answer turneth away wrath;" so the language in which public laws are expressed—the name given to officers and institutions, shades the idea conveyed and shapes public sentiment. To put into society prisons for the punishment of any class, or charities for their gratuitous aid as dependants, stirs up a spirit of opposition in the one and degrades the other. The absence of interest to maintain the law, the want of sympathy with it and with its ministers, the positive antagonism felt by criminals as a class, must have been observed by all closely conversant with them. That the prevalent idea of imprisonment is *punishment*, not restraint for reformation, I need not try to prove; it is in the very nature

and constitution of criminal law as now framed. It pervades the dietary, clothing, quarters, treatment of prisoners, as well as the official name of all things and persons connected therewith. This is pernicious in its effect upon the public mind, and it is the discernment of this that has suggested the change to "charities" already made; but the word charities in this connection savors of class distinctions, and thus disseminates differences that need to be dissipated. The true attitude of government is that of guardian—to shelter, shield, help, heal. Therefore I propose the title, *Board of Guardians*, for the Commissioners who shall control crime as well as the charities of a state.

The appointment of the Board should rest in the Governor with the advice and consent of the Senate for obvious reasons. The term of appointment should be long enough to make the position a permanent one in the esteem of the appointees, and thus to deeply interest them thoroughly educate them in this great matter and to make available for the state their ripe culture and experience—say from five to ten years.

The right composition of the Board is a difficult matter from the fact that there is little suitable material in society from which to select—but when the dignity and importance of the duties are better understood it is believed the high demand will naturally develop the needed supply. It may be true; that most men who are much interested in public affairs seek some partisan or personal advantage therefrom, and that philanthropists who self-sacrificingly devote themselves to society are usually well disposed persons with warm hearts but weak heads whose lead is not safe, but not all are thus. It is a glory of our time that strong men with sound minds are throwing their plummet with flowing line into the dark depths of society and are presenting plans for improvement without much regard for precedent—these men intelligent, enterprising, ingenuous, already interested in the science of society, are to be found in every State, will be multiplied as time goes on and form the class from which these Boards should be selected. For the purposes that will hereinafter appear, it is desirable that there should be upon the Board one physician, an educator, a lawyer and judge, one well versed in moral science, also a mechanic, a manufacturer, merchant or financier, an editor or man of letters, one man distinguished for his "common sense" and independence of character, a matronly mother of sound sense, and a woman zealous for the rights of her sex, making altogether the number of ten which is given as the maximum.

These should serve without pay except for their necessary expenses, for, unless citizens can be found who will give their lives for the good of society, and devote themselves freely to the guidance of such great interests as these without pay, they cannot be found at all. Such men will not sell their services for pelf. Such a Board so selected should be literally loaded with power; it is only thus that the position attains sufficient dignity to secure the gratuitous services of good and great men and can thoroughly enlist the life inter-

est of noble souls; only thus can they obtain that freedom and independence of action necessary to meet promptly and decidedly, the exigencies ever arising in this department of State administration. They should certainly be held to a rigid accountability by the Legislature and the public; the growth of crime should be deemed a disgrace to them; and after suitable changes are had in the criminal law, the frequent re-committal of the same persons for crime should militate against them.

Their general attention (for prevention) should be directed to sanitary regulations for the State at large, for here is found a germ of that physical and mental degradation which gives rise to vicious desires and ungovernable impulses; to compulsory education of the indigent or indifferent children and youth, for by this much of the before-mentioned evil is counteracted; to the encouragement, inspection and general supervision of individual and independent enterprises for the care of any and all classes of unfortunate and dependent people, which, when systematized and rightly directed, will prove an important preventive agency; to the dissemination of much needed information by publications and addresses as to the causes that produce and the means to prevent poverty and crime; also to direct the ministerial police of the State for the suppression of all public practices and institutions existing in violation of law, which bear directly as causes upon these dark social problems. Their observations and reports will constitute a look-out from the ship of State, through which the government and citizens at their firesides may see approaching dangers and avoid them. The Board itself will, like a watchman, wait without wearying, and ever watch to ward society from the wiles and wickedness of the worthless and vile.

Their particular work, however, has relation to the care, custody and cure of such persons as are convicted before competent courts and adjudged as needing restraint and treatment in the institutions of the State, and to the administration of the poor system, both its alms-house and the department of temporary relief, the jails and all prison establishments of whatever name or nature, for the successful management of which this Board may be held responsible and must have full power, viz: (1.) Power to appoint and remove, and affix the amount of compensation of any and all officers in the employ of the State in this department—except Sheriffs and those whose duties and authority is of mixed criminal and civil jurisdiction, but, so far as such officers have control of criminals and paupers, they should be subject to this Board. (2.) Power to create, annul, alter or amend all rules and regulations for the government, the general and particular management of such establishments and officers. (3.) Power to transfer at will any ward or criminal from one institution to another, or any other if deemed better for his treatment, to release temporarily or absolutely reformed persons, and to re-arrest and return to treatment such as suffer relapse into vicious or criminal practices of a public nature. The relation of the Board to these

establishments, and each of them should be like that of ship-owners to captain and crew. They should shape the policy to be pursued, leaving their executive officer together with the master of the house to plan particularly, the former supervising, reporting, recommending modifications and measures, and the latter required to carry out the plans practically and to *achieve success* as the condition of his official position, and for this purpose he should have the selection of his assistants with power to dismiss them at pleasure.

The institutions and instruments through which the purposes of the Board of Guardians may be realized are:

1. *A State Police or Constabulary.*—The experience of Massachusetts in this matter of a State Constabulary has been of mixed character, it is true, but then the experiment is of recent origin and has not yet been fully made, the act having passed as late as 1865. The irritations and uneasiness under it may be attributed to the friction incident to all innovations, and Mr. Sanborn, late Secretary of the Board of Charities for that State, is decidedly favorable to its continuance. Should there be doubt about making a change so general as that of Massachusetts, there certainly can be no great objection to giving to this Central Board power to direct the Sheriff, or a Deputy Sheriff in each county, for their particular work, which is an easy and economical way of affording them indispensable aid.

(2) *Primary Schools* (as at Munson, Mass.), for the education of children from the alms houses, who are three years of age and upwards, away from the contamination and taint of these miserable places, where they shall be fed, clothed and trained for good citizens, instead of criminals as now; also schools of compulsory character in large cities and towns, for the control and culture of the incorrigible, who are now expelled from the public schools or brutalized by corporal punishment. Such schools are already in operation in some States, and are found useful and successful.

(3) *Reform Schools* for juveniles, older and more advanced in wrong development. It is not my purpose to discuss in this paper the various systems and questions connected with juvenile reformatories, or to portray the true type of such establishments as it appears to me, but only to say that they should constitute a part of the prison system of the State, and be under the general control (at least) of the Board of Guardians, for, the power to transfer to and from these schools needs to be better bestowed, more frequently used, and they should be carried on in connection or harmony with the primary and compulsory school as well as the other establishments of the series.

(4) *District Reformatories* for the treatment of those who are now confined in jails for misdemeanors, where persons living vicious lives when arrested and convicted may be cured and thus saved from a life of crime. The whole vile system of common jails for the imprisonment of convicted persons must be uprooted and blotted from existence and the structures for detaining alleged offenders be

made suitable in all respects for the custody of witnesses, with large, well lighted, cheerful apartments, very strong and secure against escapes, entirely isolating their occupants from each other. Solitary abode for all in jails should be invariably enforced. The treatment of early offenders and beginners, who almost always commit misdemeanors before felonies, is entitled to much greater prominence than it now has in any prison system in the world, as is indicated by the comparative number of prisoners reached. The average annual commitments to fourteen State prisons including those of New York and Pennsylvania, reach only 375 each; while the average of prisoners annually committed to municipal prisons of the class under consideration, in large cities of from 50,000 to 100,000 inhabitants, is 1,249. As the rule these latter are only in the edge of the maelstrom, while the former have reached the giddy whirl. Prisoners released from State prisons unreformed, as too many of them are, usually plunge at once into dissipation and become "disorderly persons" whose prompt arrest and treatment saves them and society from the effect of fresh felonies. Then these intermediate or district reformatories may form a part of

(5) *The graduated series of reformatory institutions for adults.* These are of three grades. The house of reception where all prisoners shall be received and retained until reliable information is obtained as to their ancestral history, constitutional tendencies and propensities, their early social condition and its probable influence in forming their character, until, with this aid, an examination is had, and careful estimate made of their physical, mental and moral condition, upon which bases a plan of treatment may be outlined. Here the incorrigible will be detained in solitary or safe custody and experimentative treatment applied to all, for the purpose of finding those who can be properly transferred to the next grade. (b) *The Industrial Reformatory.* The special office of this grade is to propagate the germinal faculties of the mind and moral nature discovered during their stay in the House of Reception. Prisoners coming to this institution with good physical health, which is made a *sine qua non*, will be here so trained to labor as to insure their productive employment thereafter, and their perseverance and self possession will be developed and subjected to appropriate tests. The mind will be stimulated by such means as best interest and instruct. The benevolent principle—that foundation for all religious growth—will be brought into active use and if possible so developed that it shall shape their purposes throughout all their future life. Such of the prisoners as thrive under this training may be removed with great hope and confident security to the last of the series for male prisoners, viz: (c.) *The Intermediate Reformatory.* This grade of establishments may be supplied from present municipal prisons or district penitentiaries, or may be otherwise provided. They will form outposts on the brink of society, at once guarding it from the return of prisoners of dangerous influence, and restoring those who show themselves worthy. Their location should be in the interior, in

the best part of the State, near a populous town, and, if possible, quite near the State University or other prominent educational institution. Their construction should embrace a large enclosure secure in and of itself, and sufficiently removed from apartments, where most of the time is spent, to obviate the evil effect of an ever present and observable physical restraint. This inclosure should contain dormitories (not in the sense of burial places) affording to each prisoner a separate room, such as a respectable citizen might occupy; a dining hall upon the plan of a well regulated restaurant for work-people, where within due limits any desired edible may be supplied; a library building and public hall suitable for reading rooms, religious services, scientific and other intellectual exercises of a public nature; suitable industrial apartments for the branch of mechanical business carried on, which, with limited agricultural employment, may constitute the productive industrial occupation of the residents; the whole to be organized substantially upon the co-operative plan.

6, *Separate Reformatories for Women* are also necessary. These should be under the immediate management of women, and that exclusively. The movement in this direction in Massachusetts and Indiana is worthy of all praise. Wayward women must be won to virtue by their own sex if they are won at all. Build *homes* for these, who, 80 per cent of them "are what they are through no fault of theirs." Cultivate their natural love for home life, furnish them with womanly affection, fit them to earn an honest and sufficient support, find them employment and a friend, follow them with friendly acts and faithful guardianship, and fear not for their future. Full 50 per cent of them may be reformed when full control for indeterminate time is vested with a suitable Board of Guardians, when the family system supplants prisons for females.

The success of the prison system through these institutions will be governed much by the efficiency and intelligence of the state Police or agents of the Board to be located in each county before alluded to, for the supervision of prisoners discharged conditionally will devolve upon them, and the duty of rendering regular reports of their character and conduct until absolute release is ordered; also to re-arrest and return to custody such as slip through unworthily, as it is expected some will do, developing again publicly the instincts of their diseased and degraded natures.

[NOTE.—The limits of this paper forbid any description of the establishments and instruments of a properly organized poor system.]

The department of *legislation* like that of organization is capable of dual division relating, (1) to laws for the governance of the Board itself and (2) laws providing for the control and culture of the class from which criminals spring, laws for organizing and administering the poor system and all establishments, and laws conferring the custody of criminals. The scope and general character of the legislation deemed necessary, will, for the purposes of this paper, sufficiently appear from the foregoing remarks, but more

definite statement as to the custody of criminals seems to be needed.

It has been stated that a primary cause of crime lies in the ignorance of a class in society as to the benignant design of government and their consequent antagonism to laws whose force they feel. Criminals committed to prison with this sentiment, naturally feel much the same towards their custodians, which feeling forms the first and a formidable obstacle to their reformation.

That a large part of the population are indifferent to the general welfare through maintenance of law must be admitted; that those whose propensities bring them into conflict with it are antagonistic to the law and its ministers none will deny, or, that this temper tends to criminal practices and hinders reformation; but the remedy may not be so clear to our minds. It is certainly important that the criminal law should be so framed as to bring out and impress its benign spirit, which has been attempted by putting into preamble a dignified declaration of its reformatory design, but without success. The people and the prisoners perceive its real nature. The infliction of punishment—*pain*—by society, is to secure obedience to law, either by intimidation or reformation; if by the former it must be upon the ground that fear is a motive to virtuous conduct and strengthens the moral principles, which is neither true in fact or theory; fear degrades and develops dastards, while kindness inspires confidence and confidence courage, which is moral excellence, the very essence of virtue. If by reformation the principle must be false or the procedure wrong, for the history of crime the world over teaches that within certain limits diminution of legal penalty for crime has diminished its volume, and severity has increased it, while nobody now claims that imprisonment under the present system conduces to the reformation of prisoners in any general sense, or that those who impose penalties have any such hope or design.

The remedy cannot be had, the public sentiment towards the law cannot be changed, so long as a *determinate* sentence is imposed at the time of trial. The effect must be stimulative to crime and to the conditions of character that give rise to it. Heroism, noble or ignoble, holds the admiration and ambition of all classes and conditions of men throughout history in all ages of the world. We are all hero worshippers, the best of us, and worship but an indifferent standard after all—while with the criminal class, the intrepid is the hero, though he be brutal and bad, only braving the penalties of righteous laws. The sentence of imprisonment must of necessity affect the mind of the prisoner as too short and trivial, too long and tyrannical, or just adequate to the offense. If the sentence is too light, prisoners are stimulated to deserve a heavier one, thus to be esteemed more daring, and when imprisoned they mentally bridge the period of time appointed and wait day by day for restoration to former associations and habits; but if the sentence is too long they feel complimented by the importance thus conferred upon them as great criminals, until imprisonment is once entered upon

when they become vindictive towards all in any way connected with their arrest, trial, custody, finally falling into apathy and discouragement; if perchance the prisoner's views should be precisely met, his inward sense approve the penalty, then this pernicious effect is produced: He lives with a mistaken idea that he is paying the penalty—expiating his offense—and like the others counts the days as they go, entering society again, when released, precisely where he left it, having in his own estimation paid up and put himself right.

Another and an active cause of crimes is judged to be the release annually of hundreds of prisoners in every State, who are unreformed by their imprisonment, which must always be under the present system of sentences. No man, be he judge, lawyer or layman, can determine beforehand the date when imprisonment shall work reformation in any case, and it is an outrage upon society to return to the privileges of citizenship those having proved themselves dangerous and bad by the commission of crime, until a cure is wrought and reformation reached. Such minimum of restraint must be retained, as will protect the people from their pernicious influence, which possibility will prove more powerfully deterrent upon criminals and the criminal class—than the severities of the inquisition possibly could. Therefore, as for the other reasons suggested, sentences should not be determinate but *indeterminate*. By this is meant, (to state briefly) *that all persons in a State, who are convicted of crimes or offences before a competent court, shall be deemed wards of the State, and shall be committed to the custody of the Board of Guardians, until in their judgment they may be returned to society with ordinary safety and in accord with their own highest welfare.* Of course this Board will have control of all the preventive and reformatory means of the State as before indicated, and will be charged with the right restoration of all prisoners at the earliest possible date when this result is or can be reached. For a more detailed description of this principle see the synopsis of a bill drawn for presentation to the Michigan Legislature next winter, appended to this paper. I pass now to the statement of 15 points of argument in favor of the indeterminate sentence plan.

1. It supplants the law of force with the law of love, both in the State administration actually and in the esteem of the people, giving the State thus her true place, no longer "*the governor*" but the guardian. 2. It secures certainty of restraint and continued treatment which operates to prevent crime, as severity does not. 3. It makes possible the arrest and right training of that whole brood of beginners, before their character is confirmed and their caste irretrievably determined, which is impossible at present, for, the public mind, filled with the idea of *punishment*, is opposed to any forcible restraint until great depravity is reached and serious offences committed. 4. It utilizes for reformatory ends what is now the strongest motive and the greatest hindrance in the mind of prisoners, viz: the love of liberty or the desire to be released. (5.) It removes the occasion and so mollifies the

feelings of animosity usually felt towards the law and its officers, puts the personal interest of the prisoner plainly in line with obedience to rules, thus renders safe and simple the disciplinary department. (6.) It concentrates the faculty of *finesse* (so common with convicts), and the use of artifice, upon the persons charged with their curative treatment, so securing active and actual contact of mind with mind and bringing under immediate manipulation that element of character first to be reached, an attainment so very difficult ordinarily. (7.) When falsehood and strategy fail to deceive, as they surely will fail with a wise board, then there is secured their hearty co operation for the end in view, an aid without which reformation is impossible. (8.) It places the responsibility of fixing the period of imprisonment and the amount of restraint in a responsible head known to the public, easily reached and reviewed, instead of leaving it to the whim of officers elected by the popular vote, who (as the rule) have neither time nor opportunity to know what is best in the case. (9.) While this law does not necessarily remove the power to determine periods of imprisonment for criminals from the judiciary, it furnishes the advice of experts in examinations, and the advantage of experience not now had. (10.) It removes the date of determining the term of detention away from the time of trial with its excitements, its prejudices and any influence of popular clamour, and affords opportunity to judge correctly of the real character of the prisoner. (11.) It renders possible the speedy correction of errors and of wrongs often unintentionally inflicted upon first offenders, those who only once or twice in a life time follow a morbid impulse to the commission of crime. (12.) It accomplishes the return of reformed persons to society at the right moment and at the best point, regulating the amount of restraint as well as its duration. (13.) It retains through the whole life of the prisoner, if needs be, such guardianship as protects society, and protects the prisoner himself from his ungovernable impulse, from persecution by the injured or ill-disposed, and from poverty and great want—relaxing control from time to time until the new formed purposes, newly used powers are determined and developed when absolute release should ensue. (14.) It is constitutional and competent for the Legislature to enact such a statute, as I am informed by the highest legal authority; that it is the only sound legal basis of thorough criminal legislation, both deterrent and reformatory, is a growing conviction in legal minds; that it is practicable is demonstrated by the operation of the law in Michigan, passed 1868, known familiarly as the "three years' law." (15.) The experience of more than twenty years, with the most careful study of the whole question of reformation possible, forces the conviction that a reformatory system of prisons cannot exist without it, and that it is quite indispensable to the ideal of a *true prison system*.

The *administration* of a prison system is the important thing when the system itself is well planned, for its success as a preventive and reformatory agency must depend much

upon this, and great care will be needed lest the management becomes diverted from these aims. When the popularity of the system or of any of its agents becomes the leading thought, when results are esteemed more for their value to the pet theory than for their practical good to society, then disintegration will sooner or later ensue. In times rife with political partizanship, the purest and best measures to promote the prosperity of the people are apt to be poisoned or put aside, and everything relating to prisons and prisoners is specially open to this influence, for the criminal class in society is the arena for partisan strife and gleanings. No true prison system can be administered for partisan ends in any degree. Personal considerations influencing the bestowment of places of responsibility, such as the necessities of those who are unfortunate and unsuccessful in ordinary affairs, also perverts and spoils the best laid plan of management. Men and women must be selected for their real usefulness, their practical value, as any business concern select their employes.

The general administration will necessitate a Secretary in smaller States, and Secretaries in larger ones, who will constitute the executive officer or officers of the board; also the sub-division of the board into committees, each having special charge of some department of the work, such as sanitary and structural, financial and industrial, the intellectual and educational. Another committee should take charge of the examination and generalization of the facts to be found in society that contribute to criminality, and of the cultivation of right public sentiment on the whole question on which so much depends. Still another committee and the fifth, should be devoted to discharged persons, their favorable restoration, measurable protection and watchful supervision in society, through the system of agents before mentioned. Thus there will be two members of the board to each department, provided the number of ten suggested constitutes the whole, which accords with the plan of one wiser than we are, who sent out 70, two and two, with whose mission ours has this likeness, at least, that we seek to prevent wrong and bring back to and up to a condition of virtue, poor fallen humanity. Then the Board, being volunteers, may avail themselves of the benevolent and best people and of private organizations throughout the State as helps; they may present properly prepared plans for church work and press the importance of these practical social questions, if by any possibility these societies may be induced to wield such weapons for the welfare of the world without special regard to their own formulas or finances.

While it may be expected that the true system properly administered will exert a repressive influence upon crime generally, an actual diminution of crimes be effected, and a large *per centum* of prisoners be reformed; it is not true that the former will follow from the latter, that the repression of crime in community can come from either the punitive or reformatory treatment of prisoners in prisons, as seems to be hoped in these days and

as is plainly stated in descriptions of the Irish system. Is it not possible that the late far seeing statesman Count Cavour is misunderstood in this matter? Did he intend to say in his letter to Sir Walter Croxton that the *only efficacious means* of discountenancing and checking crime is by the treatment of prisoners upon the principles of the Irish system? Or, was it that the only way in which this result may be effected by *prisons* is by administering them thus, without committing himself upon the broad question whether prisons can accomplish any general result of the kind named? Those who study closely the causes of crime and the criminal classes, must all feel the futility of this measure and the hopelessness of such expectations. It were as well to attempt the destruction of a tree by plucking its fruit, to steer a ship by the topmast or to bail the ocean with a bucket. The administration of a prison system for a State with this sole view, is narrow, incomplete and never can succeed. Whatever of repression is effected will not be observed in depopulated prisons as the sanguine expect; a true prison system involves advanced civilization, which always takes cognizance of crimes and swells the criminal record. High civilization is found in crowded communities and density of population increases the incitements to crime. I have not the figures at hand, but venture the assertion that those States where the intelligence and virtue of the people is confessedly greatest will be found to have the fullest prisons, so that until we tide over into millennial society a true prison system will not be useless, and we in our way shall find plenty of work to do.

It is true, nevertheless, that the reformation of prisoners in prison is indispensable to the preventive effect sought, for the return to society of discharged prisoners unreformed is to poison it with the worst elements possible to provide, and to retain them in prison indefinitely, while affording protection from their evil influence at the same time, imposes a burden impossible to be borne; therefore, the grand design, the all-animating purpose, may well be to accomplish this result, which is feasible in a large majority of the cases that would be under treatment by this system.

A fundamental condition of success in this respect is the financial independence of the organization and its institutions; it is not to be sneered at by those specially interested or occupied in religious ministrations, as is too often done; the importance of this cannot well be made too prominent. It is too much to expect in our day that citizens generally will vote taxes upon themselves to provide not only suitable institutions for the reformatory treatment of criminals, but to support them in unproductive industry and supply them with the indispensables of reformatory progress, viz: good diet, good clothes, good quarters, entertaining educational means, and the pure personal friendship of a refined religious instructor. If these are supplied regularly to institutions and prisons, it must come through their own exertions and by levy of excise on the grosser appetites and propensities. The labor of the prisoners together with in-

come from taxes (for repression) upon traffic opposed to the public weal, must furnish funds for all this when once the establishments have been erected, or success is impossible for this or any system designed for the curative treatment of criminals. Then again there is little hope of reformation for criminals generally unless they can become self-sustaining through their own honest effort, and this must be acquired or shown while under tutelage of these guardians. The habits of self-denial and productive personal exertion must be imparted, or degradation and disaster surely follow their return to normal society. After medical treatment the first step towards moral improvement is in many cases *industrial training*.

To train to productive industry those who are the victims of idleness, ignorance and their criminal impulses, involves *compulsion* as an element of discipline and as the training is for their own improvement—not for anybody's pecuniary benefit as its object—and since compulsion is necessary to hold them continuously in contact with the means of culture provided—its use is justifiable. In a favorable frame one may elect to take the conditions and consequences of a course of moral training; still fluctuations of feeling, vagrant impulses, are liable and likely to get possession of the mind and bear away the will into captivity of evil unless at such times compulsion is applied. It is doubtless true that the reformation of a man cannot be compassed in opposition to his will—that is, when the will is arrayed in conscious opposition. Yet the process may go on unconsciously and without his voluntary co-operation. It is not true, therefore, that any restraint, involuntary privation, or compulsory dictation subverts the desired result, as is sometimes claimed; it is impossible in the nature of the case that a reformatory prison shall accord with the desires of those whose tastes and disposition it is designed to revolutionize and improve. An antagonism exists of necessity at the beginning; hence compulsion is indispensable. Harmony cannot be secured by modifying means and methods to meet the demands or desires of prisoner, without destroying the good designed, but must be had by the conformation of their desires to their surroundings in these respects, and only thus. The administration of a system then should be characterized by inflexible purpose, based upon a firm foundation of principles; indeed every step towards indulgence is fraught with danger and more likely to prove disastrous than the most tenacious adherence to routine.

The *employment* of prisoners should be at mechanical branches chiefly, because these place the prisoners in the most favorable situation for us to control the influences that reach them; afford better opportunity and involve greater necessity for exercising the will to hold the mind and muscles to careful, skillful toil, thus developing self-control; and because they are more productive in this country than agriculture or employment upon public works, the crank or treadmill. Whether they shall be employed with or without the intervention of contractors is an open question and must be governed much by circum-

stances. I am opposed to the contract *system*, but there are times and circumstances when to contract the prisoners' labor is the best thing. If the manager of an establishment is all that is desired in other respects, but not adapted to manufacturing management, or, in the absence of requisite capital, or, when the concern is so large as to overburden the warden with business care; so that he has not time or strength for aught else, or where there is much liability of change from political or local reasons, it may be well to employ a portion only of the prisoners directly for the State, contracting out the labor of the balance to good men upon suitable terms and conditions.

The whole scope of the world's industry should be open for the employment of prisoners; no interference of trades' unions can be listened to; the logic of the least dictation from them leads to locking up the prisoners in idleness, and there is no good ground for it on their part. The statistics heretofore adduced show 82 per cent of prisoners to have been laborers and servants, only 16 per cent artisans, from which it would seem that in proportion as laborers become mechanics and tradesmen their liability to commit crime is reduced; hence the employment of prisoners at mechanical pursuits is a reformatory measure and for the best interest of society at large. Shall the small per cent of artisans in society object, or seek to prevent this? It is unworthy of them, and, comprehensively viewed, not for their interest. Competition is most onerous to those of least income or resources, and are not the laborers and servants these? Is it not true benevolence and sound policy to remove, if possible, competition from those least able to bear it to where it can better be borne? Are there demagogues or associations of men selfish enough, so partisan that they wish to oppress the poorest class in society, or will mechanics—men—follow their lead? Let this senseless cry against convict labor cease. The world is wide—there is room for all. Let the welfare of the whole supersede the selfishness of the few.

The co-operative principle may be applied to the industries of a reformatory prison where the sentences are upon the indeterminate plan, at least such a one as the intermediate reformatory herein outlined. By this is meant that the prisoners may be interested in producing an income sufficient to defray all the expenses of the establishment by the privilege of sharing in any surplus gained, which I believe to be the only feasible general plan for giving prisoners a share of their earnings; though in a limited way, with selected prisoners, an ordinary system of overwork, well managed, may be beneficial. With the foregoing simple statement I will leave this important theme for another occasion.

Much is now said of the desirability of *classification*, by which prisoners of a certain moral grade may be congregated in one prison or apartment, and those of other type elsewhere, and this prison system recognizes and adopts the principle. In actual administration, however, it is a very difficult thing to do, and there is danger of "drawing it too fine."

In the prisons of the best system to be devised, graduate them as you will, there must always be a mixed company, no human wisdom can avoid it, the tares and the wheat must grow together until the harvest. Only the very worst element can be withdrawn from the industrial reformatory of this series, but a small number will remain at the place of reception, and for the first few years at least but a small percentage can get into the intermediate institution; and it will be readily seen that such changes in individuals throughout the whole will occur—fluctuating like the waves of the sea—that power to transfer at will is indispensable to the operations of the Board or the management of the several establishments.

Were it possible to accomplish close classification upon the basis of character it would be of doubtful utility, for thereby the influence of the better over the worse would be lost; as also the stimulus to the former and the best test of their real character found in resisting evil and in triumph over the influence of the bad, and the whole of both classes be deprived of that grand motor for self-improvement, viz., a fair field for self-forgetful efforts for the elevation of others. The effect of classification is both favorable and unfavorable; the good are possibly made better (?); the bad are certainly made worse; it helps the officers to secure obedience to the rules, but this is not reliable evidence of reformed character. The best behaved prisoner is often the worst citizen; men, for whose reform there is absolutely no hope, will grade out early by the best mark system to be desired, if conduct in prison is the test, while some whose reformation is already attained cannot possibly keep a clean record. The true basis of classification for prisoners is *character* not conduct. The criterion of character should be uniform throughout the whole system of institutions, and therefore should be applied in each case by the same officer or officers, say the secretary or some suitable officer of the Board. Good conduct may be assumed, but good character *never*; men may feign insanity and thus get into an Asylum, but the insane rarely feign sanity sufficiently well to get out; nor is it easier to put on the semblance of virtue to deceive an experienced judge and sensible man. Reformatory results hinge upon financial independence, which is largely dependent upon the wise organization and application of the labor of prisoners, and it is found, practically, that to classify as is generally supposed, destroys or greatly impairs the efficiency of the force for producing income and thus works against the object sought, neutralizing fully any immediate result attained.

After withdrawing the very worst and best element from an institution as before suggested, the best classification, all things considered, is had, not by separation of classes into different apartments, there allowing unrestrained intercourse, but by such supervision of each company in all apartments during the hours of actual operations as shall prevent corrupting communications, permitting occasionally and within due limits such intercourse as is of good effect; and the public sentiment of a reformatory may be so favorable

that quite general communication can safely be indulged at times.

In administering a prison system, or a system of prisons, the *intellectual education* of all classes must take more prominent place, and the education of adult prisoners must not be neglected. The conviction is gaining ground that Christian character can be cultivated; that it can come *only thus*; that it is no moral mirage to be made at will with human emotions, but a veritable quality of being, inbred and inwrought by Christian culture; that criminals are susceptible to change for the better by this means, and that education in its enlarged sense is the true title for the process. The absence of ordinary information indicated by the statistics before given is enough of itself to drive these people to degrading occupations and amusements. Such absence of mental culture must leave them as the same statistics show them to be—the blind servants of the animal instincts, and these are both favorable conditions for crime. The effect of education is reformatory, for it tends to dissipate poverty by imparting intelligence sufficient to conduct ordinary affairs, and puts into the mind necessarily habits of punctuality, method and perseverance. By education the whole man is toned up, and not only the habits but the quality of the mind itself is improved, so that its strength and activity render possible nice, discriminating, moral perceptions, whose tendency is to better impulses and acts. There is a difference in the characteristics of criminals answerable to this law of their development; there is a refinement of roguery with some and a devilish way of doing things with others that corresponds to the culture they have received. If culture then has a refining influence at all, 'tis only necessary to carry it far enough to cultivate the criminal out of his criminality, and to constitute him (towards society) a reformed man. Education helps to good society, without which permanent reformation cannot be, and at the same time imparts an impulse in that direction; for the consciousness that our tastes are in harmony with any class, and of our ability to make ourselves agreeable to them, inclines us to their society. Education occupies the time and affords society in solitude, whose tendency otherwise is always deteriorating; it adds firmness to the mind, thus fitting it for the crises of life, constituting fortitude the guard and support of the other virtues. The testimony of those who are making a quite thorough experiment in educating adult prisoners is entirely favorable to our view. It is stated that there is a desire to learn greater than in the common schools for children, and that better average progress is made; that the school exercises produce very marked change in the appearance of the prisoners, the gross, animal aspect departing, the face and form robing themselves with the habiliments of manliness; also, that between 40 and 50 per cent. of the prisoners in the school are deeply interested in their personal religious relations, while only six per cent. of the others manifest any special regard to the matter. The testimony of a reformed man is also in point. He says: "The darkness of my situation was dispelled, the dawn of better days arose, hope was eu-

kindled when I became conscious of making real progress in primary studies, and as I continued to advance, the school proved an additional stimulus until my life of imprisonment became one of freedom; though the body was immured my mind flew to farthest regions and found fellowship with the world. Sometimes I seem to be entirely satisfied, and desire no other heaven than the new found fountains of joy." *Let us educate.*

"The importance and power of Religious Forces in Prisons" forms the topic for a paper to be read before this Congress, therefore I will not write upon it except to state, viz.: Religion, as the term is popularly understood, fills a place, and is an indispensable element of a reformatory system, but does not constitute the whole of it, as some would have us believe. It is possible for one to be a good citizen without being "religious," and it may be possible for a criminal to live correctly without observing ordinary religious forms of worship; but it is not possible for radically wrong character to be renovated, renewed, rendered right without connecting the thoughts and the affections with God, the good Father of us all.

The religious faculties, however, are not always the first to feel the influence of Christian culture, though they frequently present the first observable evidence of improvement.

A *quadruped* cannot respond to religious influences, nor can a *biped*, until his intellect is stirred to see and his affections trained to feel the effect of self-sacrificing love; there is such a thing as "casting pearls before swine, giving that which is holy to the dogs." Christianity cares for the body, that temple of the soul, and it is a Christian work to feed, clothe and refine it. Christianity cares for the mind, the *media* of the soul; to cultivate it is also Christian. Christianity is more than a system of religion; it is before it, beneath it, above it, religion is included in it.

The ideal of a true prison system, in the great scope of its influence, in the spirit and principles upon which it is based, in its grand two-fold aim, in its plan of organization, of legislation and in the particulars of its administration, in the *Christian ideal* in all the breadth and blessedness of that term.

Let us then who live under this light in these latter days, lend our influence and our aid to plant such a system, not only in a State but in every State and throughout the world, being assured that when we have found the 'philosophy of the plan of salvation' for the feeble and fallen of our fellow creatures, we shall have found God's plan for saving the race and may feel the force of the words, "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me."



